

## NCDOT/ACEC/AGC Design-Build Committee

Wednesday, May 10, 2006 – Meeting Minutes

The meeting was held in the Chief Engineer's Conference Room at 4809 Beryl Road, in Raleigh, North Carolina at 10:00 a.m. Attending were:

<u>NAME</u>	<u>REPRESENTING</u>
Victor Barbour	NCDOT
Steve DeWitt	NCDOT
Art McMillan	NCDOT
Berry Jenkins	Carolinas AGC
Jonathan Bivens	S. T. Wooten Corporation
Ed Spencer	Rea
Michael Dane	Dane Construction
Dan Peter	Granite
Drew Johnson	Barnhill Contracting.
Chris Britton	Taylor and Murphy
Robert Ponton	Larco Construction / Colas
Jeff Douglas	HDR
Gregory Heinz	Parsons Brinckerhoff
Tim Keener	URS
Mike Krannitz	Stewart Engineering
Tommy Peacock	RK&K
Tom Shearin	Earth Tech
Tom Nettleton	The LPA Group
Jeff Gagne	RWA

The following items were discussed at the meeting and are listed in order of the agenda:

- 1. Update on Current Design-Build Projects Under Construction** – A lot of projects are underway and going well. The permit process has been successful. The US 1/64 project in Cary is behind schedule, but Lane is working hard to recover the schedule. The Windsor Bypass and Outer Loop projects are going well. There have not been any payout problems as a result of programming a progressive payout schedule into the financial model for design build projects. On Taylor and Murphy's current project, a supplemental agreement approval is affecting the schedule due to its being a controlling operation. Drew Johnson commented that projects such as Bingham Drive should not be done as design-build due to utility issues. NCDOT commented that they would probably not do a project like this again as a design-build project.
- 2. Future Design Build Projects / Letting Schedule** – Two projects were recently put on hold due to the financial analysis model and budget situation at NCDOT. Both projects, Long Shoals Road and US 601 in Union County are still ongoing, but delayed. Resolution concerning financing is expected soon. Projects anticipated to be advertised in February/March 2007, as well as the Forsyth County bridges may also slide. Berry Jenkins asked if NCDOT should be considering any projects for design-build given NCDOT's current financial situation and the expense that contractors and engineering firms were incurring in proposing on them.

NCDOT went into some detail concerning the financial situation and how we got to this point. Due to high gas prices, consumption is down as well as new car purchases, two of NCDOT's major revenue generators. In addition, inflation is greatly affecting the budget as well as lack of Federal funds flowing into NC [86% in actual reimbursement versus 92% in expected reimbursement]. Latest studies indicate that NCDOT will have a \$920 million budget shortfall over the next three years. The Governor has announced that he will give \$198 million back to NCDOT.

Dan Peter commented that he did not see why a project would be put into the design-build program unless 100% funding was committed to the project upfront. Jonathan Bivens commented that the teams are spending money once the shortlist is announced and putting a project on hold puts the teams on the hook for this money, while NCDOT is only on the hook for the stipends. NCDOT responded that they would not have moved ahead on projects if they had anticipated the budget problems.

NCDOT is waiting to get a budget before being able to develop the draft TIP. Due to the current funding problems projects will be delayed in the current 12/36-month let lists. NCDOT will have a final decision on the delay to design-build projects within the next 30 days.

Berry Jenkins provided some of AGC's and NC GO's approaches to resolving some of the budget issues. Their idea is to issue a \$1 billion bond to provide a band aid to the immediate shortfall. This bond concept would have to go to public vote and compete with water/waste water bonds, clean water bonds, and school bonds. A better fix is to change the formulas on gas and vehicle taxes to better match our neighbors. Tolling is also a means of additional funds and GARVEE bonds are being debated at \$300 million per year. In short, there are no large amounts of money on the horizon to fix this problem. Bills are being introduced to cap the gas tax. AGC, ACEC, and NC GO are all trying to get the word out to the public on the severity of the financial situation.

The conversation turned to toll roads, with opportunities coming in this area. The Triangle Parkway and Western Wake Expressway are two projects that are expected to be awarded in the fall of next year, but it will be five years before they start generating revenue. Western Wake's financial numbers need to come in and the EIS needs to be updated to include toll plazas. There will also be political issues with tolling this section of I-540 when the other sections are free. The public needs an understanding of the financial situation in North Carolina with respect to transportation and that without tolls, these projects will move way out. NCDOT has a proposal in front of FHWA to build express lanes on I-95 and toll these lanes for through traffic. On the toll projects, there is typically a gap in the cost of the project and the revenues that the project will generate. This gap will have to be filled with public money. The Triangle Parkway has a \$100 million gap.

There is a push to develop Public Private Partnerships in this state. FHWA is also pushing PPPs in North Carolina. The revenues would flow to private entities or both state and private entities if there is a revenue sharing agreement.

Berry Jenkins noted that current legislation does not allow existing facilities to be tolled, but changes in this legislation could allow facilities such as I-540 to be tolled and the monies generated kept in local projects. We are all going to have to work together to solve the situation. The Regional Transportation Alliance (RTA) is another group fighting for transportation in the Triangle area.

3. **Update on Exposing Scores/ Cost Proposals** – NCDOT drafted language concerning this issue and got it approved by FHWA and the Attorney General's Office. This language will be included in future RFPs and will read as follows:

**Opening of Price Proposals**

*Prior to opening of price proposals, the Contract Officer will provide to each team their technical score in a sealed envelope. The sealed envelope will contain that team's score only.*

*At the time and date specified the Contract Officer will open the price proposals and calculate the percentage difference between the price proposals submitted and the Engineer's Estimate.*

*Should all of the price proposals be within an acceptable range or below the Engineer's Estimate the Contract Officer will proceed to calculate the quality credit and publicly read the price proposal, technical score, and adjusted price as outlined in the selection procedure above.*

*Should any one or more of the price proposals be within an acceptable range or below the Engineer's Estimate and the remaining price proposals exceed an acceptable range of the Engineer's Estimate the Contract Officer will go to a separate location to calculate the quality credit and determine if the team with the lowest adjusted price is within an acceptable range of the Engineer's Estimate. Should the price proposal of the team with the lowest adjusted price be within an acceptable range of the Engineer's Estimate or below the Engineer's Estimate the Contract Officer will proceed to publicly read the price proposals, technical scores, and adjusted prices. Should the price proposal of the team with the lowest adjusted price exceed an acceptable range of the Engineer's Estimate the Contract Officer will publicly read the price proposals only and the Department will then determine whether to proceed to request a Best and Final Offer (BAFO) as outlined below.*

*Should all price proposals submitted exceed an acceptable range of the Engineer's Estimate the Contract Officer will publicly read the price proposal only. The Department will then determine whether to proceed to request a Best and Final Offer (BAFO) as outlined below.*

*Provided the Department elects to proceed to request a Best and Final Offer (BAFO), at the date and time specified the Contract Officer will open the Best and Final Offer price proposals and proceed to publicly read all price proposals, technical scores and adjusted prices.*

**Best and Final Offer**

*In the event initial price proposals exceed an acceptable range of the Engineer's Estimate or if the Department feels it is necessary for any reason the Department may choose to make amendments to the details of the RFP and request a Best and Final Offer from all of the previously shortlisted teams. Alternately, the Department may choose to redistribute to the shortlisted firms another RFP for the project with no amendments to the RFP scope.*

*After receipt of the redistributed RFP, the Design-Build Team has the option of changing their Technical Proposal details. If the Design-Build Team changes any component of the Technical Proposal, the TRC will review those amended components of the Technical Proposal and reevaluate the scores accordingly. The Design-Build Team shall highlight the*

*changes to bring them to the Department's attention. A revised total score will be calculated, if appropriate, based on these amendments to the Technical Proposal.*

*Additional oral interviews will not be held. The Design-Build Teams will submit both a revised Price Proposal and a revised Technical Proposal (if applicable) at the time, place, and date specified in the redistributed RFP. A revised Quality Value (if required) and Adjusted Price will be determined elsewhere in the RFP. This will constitute the Design-Build Team's Best and Final Offer. Award of the project may be made to the team with the lowest adjusted price on this Best and Final Offer for the project.*

Dan Peter commented that he preferred that the bids not be exposed and that some other states were not opening the bids publicly. NCDOT responded that both FHWA and NC legislation required the bids to be opened publicly

4. **Potential Working Groups** – The idea of having joint workgroups consisting of NCDOT, AGC, and ACEC Design-Build Subcommittee members was introduced. These work groups would focus on developing processes for confidential questions, enhancement opportunities, and developing better engineer's estimates. It was agreed to develop these work groups and that the confidential questions and enhancement opportunities could be grouped together. Volunteers will be recruited for these work groups. Jonathan Bivens volunteered to be on the engineer's estimate work group.

There was discussion concerning the scoring of the technical proposals and that enough credit is not being given for enhancement opportunities or confidential questions that result in a better or more economic project. The engineer's estimate needs to consider enhancements. Confidential questions should allow a team to bring an idea before NCDOT that may not meet the scope and get some direction on the issue. The Confidential Question concept is available but has not been used nearly enough for design-build teams to bring scope changes to NCDOT that save money and get credit for these scope changes if accepted by NCDOT.

Steve DeWitt commented that AASHTO is soliciting assistance in reviewing engineer's estimates and risk assessment/assignment. There is a desire to meet with contractors and learn exactly how they are pricing these projects – in particular as it relates to contingencies and design costs.

## 5. NCDOT Issues and/or Concerns

- a. **NCDOT's Financial Situation Impact on Design Build** – covered in the above discussion.
- b. **Importance of Up to Date TCP and EC Plans** – This is a critically important issue. These plans are needed by review agencies and need to be kept on site and up to date at all times. If the Erosion Control Plans are not readily available, it causes problems with the review agencies. If up to date, approved Traffic Control Plans are not present, there could be liability issues. We cannot afford to do traffic control phasing without plans due to liability.
- c. **Utilities Approach on R-2813B Long Shoals Road** – NCDOT is using a different approach to utilities on this project. NCDOT approached the utility owners to include the utility work in the design-build contract. The utility company will pay NCDOT, NCDOT will draft up the utility agreement, and the contractor will perform the work. The agreement says that NCDOT will do the work, the utility will pay, and the utility will be able to test and accept the work.

The NCDOT website has scopes of work and utility specs. Chris Britton commented that the bids are due soon, but more time is needed to get costs on utilities.

## **6. AGC Issues/Concerns**

- a. Jonathan Bivens ask about NCDOT's policy on changes to design standards published on the website during proposal phase and incorporation of the changes into the projects. This is causing issues and could NCDOT put a cut off date in the RFP to eliminate changes? NCDOT agreed this was a good approach and if they wanted anything that changed included in the RFP, they could issue an addendum.

## **7. ACEC/NC Issues/and/or Concerns**

- a. Conflict of Interest Survey Results – The results of the survey were handed out. In summary, the comments reflected NCDOT's current guidelines regarding excluding firms from participation in design build projects where they have prepared the environmental documents and/or preliminary design for the subject project.
- b. Impact of D-B Project Delays – In addition to the financial issues discussed above, it is difficult to protect the bid amounts, project approaches, etc. from being exposed when projects are delayed. When delays come late, a lot of the printing of the proposal is already done and has to be redone with new dates.
- c. ACEC Subcommittee Changes - Tim Keener, Tommy Peacock, and Lisa Robert will be rotating off this committee while Keith Skinner, Steve Scott, and Brian Keaney will be rotating onto the committee for a three year term.

Following the discussion of issues and concerns, the meeting was adjourned.